

REMARKS

This is intended as a full and complete response to the Final Office Action dated June 7, 2010, having a shortened statutory period for response set to expire on September 7, 2010. Applicants submit this response to place the application in condition for allowance or in better form for appeal. Please reconsider the claims pending in the application for reasons discussed below.

Claims 10, 14-16, 20, 21, and 27-32 are pending in the application. Claims 10, 14-16, 20, 21, and 27-32 remain pending following entry of this response.

Statement of Substance of Interview

On July 9, 2010, a telephonic interview was held between Casey S. Parks (attorney, Reg. #62,921) and the Examiner. The parties discussed the cited references including *Driesch*. Claim 10 was discussed. The parties also discussed proposed amendments to claim 10.

During the interview, Applicants argued that the logging disclosed by *Driesch* occurs after the query statement has been submitted for execution, and as such, does not disclose the claimed limitation. No agreement could be reached at the time of the interview.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejects claims 10, 14-16, 20-21, and 27-32 under 35 U.S.C. 103(a), arguing the claims are unpatentable over *Win et al.*, (U.S. 6,453,353, hereinafter *Win*), in view of *Faybishenko et al.*, (U.S. 2003/0158839, hereinafter *Faybishenko*), and further in view of *Driesch et al.*, (U.S. PG PUB 2003/0065648, hereinafter *Driesch*).

The Examiner takes the position that *Driesch* teaches the claimed limitation of “wherein the runtime metadata is collected before the query statement is submitted for execution.”

Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See MPEP § 2141. Establishing a *prima facie* case of obviousness

begins with first resolving the factual inquiries of *Graham v. John Deere Co.*, 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.

Respectfully, Applicants submit that the Examiner has not properly characterized the teachings of the references and/or the claims at issue. Accordingly, a *prima facie* case of obviousness has not been established.

The Examiner states that the combination of *Win*, in view of *Faybishenko*, and in further view of *Driesch*, teaches all the elements of the current claim 10. More specifically, the Examiner states that *Driesch* discloses the claimed limitation of “wherein the runtime metadata is collected before the query statement is submitted for execution,” stating:

The Examiner notes that “plan information” includes data about the tables being accessed to retrieve desired data from a SQL query. Moreover, the plan information is logged (See “The plan information generated at step 206 (described above with reference to FIG. 2) is then written to the log 134 at step 310”) before the query is executed (See that “At step 312, a query cursor for the selected plan is opened in preparation to execute the plan”).

Respectfully, the Examiner misconstrues the teachings of *Driesch*. The plan information in *Driesch* is not logged before the query statement is submitted for execution, but rather as part of the execution of the query (i.e., the query has been received and an execution plan for the query generated), and thus after the query has been submitted for execution. This is clear from Figure 3 (which describes aspects of Figure 2 in more detail). Regarding Figure 3, *Driesch* states: “FIG. 3 shows one embodiment of step 210 for executing a query according to a selected execution plan and determining whether query implementation information will be collected/logged.” *Driesch*, Para. [0035]. Furthermore, as shown in Figure 2 of *Driesch*, step 210 states

“Execute Access Plan and Selectively Log Query Implementation Info.” Thus, *Driesch* teaches generating an access plan from a received query statement, and logging certain information about the access plan before executing the access plan itself. In other words, *Driesch* teaches compiling a query into one or more database operations, and before executing the compiled query, logging certain information about the one or more database operations.

In contrast, claim 10 recites the limitation of “wherein the runtime metadata is collected before the query statement is submitted for execution.” (Emphasis Added). Thus, while claim 10 recites collecting metadata before the query statement is submitted for execution, *Driesch* teaches logging information about an access plan generated from an already-received query statement. This is clear from Figure 2 of *Driesch*, as step 202 shows “Accept SQL Query from User.” Thus, while the current claim 10 recites collecting metadata before the query statement is submitted for execution, Figure 2 of *Driesch* does even not begin until the query statement has been received (and thus already submitted). As such, any subsequent steps performed in Figures 2 and 3 of *Driesch* must logically come after the query statement has been submitted for execution. For the above reasons, Applicants respectfully submit that the cited references, when combined, fail to teach all the limitations of claim 10, and thus claim 10 is believed to be allowable.

Claims 20 and 27 contain substantially the same limitations as claim 10, and were rejected for substantially the same reasons. As claim 10 is believed to be allowable, claims 20 and 27, as well as all dependent claims, are also allowable. Therefore, the claims are believed to be allowable, and allowance of the claims is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

If the Examiner believes any issues remain that prevent this application from going to issue, the Examiner is strongly encouraged to contact Gero McClellan, attorney of record, at (336) 698-4286, to discuss strategies for moving prosecution forward toward allowance.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

/Gero G. MCCLELLAN, Reg. #44227/

Gero G. McClellan
Registration No. 44,227
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicants